

WILLIAM DOUGLAS WELLS

IBLA 94-895

Decided November 5, 1997

Appeal from a decision of the Nevada State Office, Bureau of Land Management, declaring the Douglas Ridge No. 1 (NMC 698095), Douglas Ridge No. 2 (NMC 698096), and Douglas Ridge No. 3 (NMC 698097) lode mining claims null and void ab initio.

Affirmed.

1. Withdrawals and Reservations: Effect of

Pursuant to the Act of Mar. 6, 1958, Pub. L. No. 85-339, 72 Stat. 31 (1958), the Secretary withdrew and segregated certain lands in Nevada from all forms of entry under the public land laws for the benefit of the State of Nevada. In an application dated March 1, 1968, the State of Nevada requested the transfer and conveyance of certain of those lands. The filing of this application extended the term of the segregation of the named lands, and those lands remain segregated.

2. Mining Claims: Lands Subject to—Mining Claims: Withdrawn Land—Withdrawals and Reservations: Effect of

A mining claim located on land which has been segregated from mineral location is properly declared null and void ab initio.

APPEARANCES: William Douglas Wells, pro se.

OPINION BY ADMINISTRATIVE JUDGE MULLEN

William Douglas Wells has appealed an August 31, 1994, Decision issued by the Nevada State Office, Bureau of Land Management (BLM or Bureau), declaring the Douglas Ridge No. 1 (NMC 698095), Douglas Ridge No. 2 (NMC 698096), and Douglas Ridge No. 3 (NMC 698097) Lode Mining Claims null and void ab initio. Wells' claims are located in the SW¹/₄, sec. 36, T. 24 S., R. 63 E. and the NW¹/₄, sec. 1, T. 25 S., R. 63 E., Mount Diablo Meridian, Nevada.

In its August 31, 1994, Decision, the Bureau stated:

The [lands upon which the claims are situated] were segregated by the El Dorado Valley Act, enacted March 6, 1958. The Act provides for the purchase of these lands by the State of Nevada. As of the date of the Act, March 6, 1958, these lands were segregated from all forms of entry, including the mining laws.

In his Statement of Reasons for appeal, Wells states that the existence and boundaries of the lands subject to the Act of March 6, 1958 (El Dorado Valley Act), Pub. L. No. 85-339, 72 Stat. 31 (1958), are not adequately defined in reasonably accessible public records. He has also submitted a copy of a map of Clark County, Nevada, a U.S. Geological Survey map of the area and an "official" highway map of Nevada. 1/

[1] The El Dorado Valley Act provided: "The Secretary is hereby authorized and directed to segregate from all forms of entry under the public land laws of the United States, during a period of five years from and after the effective date of this Act, the following described lands, situated in the State of Nevada * * *." In Public Land Order No. (PLO) 339, dated April 7, 1958, the Director, BLM, withdrew and segregated "from all forms of entry under the public land laws" lands in the El Dorado Valley for the benefit of the Colorado River Commission of Nevada, which was acting for the State of Nevada. The lands in Ts. 24 and 25 S., R. 63 E., Mount Diablo Meridian, Nevada, were listed in that order.

Section 3 of the El Dorado Valley Act, as amended, provides, in pertinent part:

The Commission, acting on behalf of the State, is hereby given the option, * * *, of having patented to the State by the Secretary all or portions of the lands within the transfer area. Such option may be exercised at any time during the * * * period of segregation * * *, but the filing of any application for the conveyance of title * * *, if received by the Secretary * * * prior to the expiration of such period, shall have the effect of extending the period of segregation * * * until such application is finally disposed of by the Secretary.

By the Act of October 10, 1962, Pub. L. No. 87-784, 76 Stat. 804 (1962), the time period for State selection set out in the El Dorado Valley Act was extended 5 years to allow more time for selecting lands.

1/ None of these maps discloses the status of BLM land. It is suggested that Wells examine the status records located in BLM's state office before locating mining claims. See generally Robert G. Pruitt, Jr., Rocky Mountain Mineral Law Foundation, Digest of Mining Claim Laws (5th ed. 1996).

On October 10, 1963, the Department published PLO 3246 extending the segregative effect of the April 7, 1958, Order to March 6, 1968. 28 Fed. Reg. 11070 (1962).

In Malcolm L. Figert, 77 IBLA 160 (1983), we set out statements by the Deputy Attorney General for the State of Nevada which are applicable to this case. As explained in that decision, the Colorado River Commission was required to submit an application for the conveyance of title to the Secretary of the Interior prior to March 6, 1968. On March 1, 1968, the Commission submitted its application for transfer of lands in the El Dorado Valley. In an application to the Secretary of the Interior dated March 1, 1968, the Colorado River Commission requested the transfer and conveyance of certain lands, including the lands in issue. The filing of this application extended the term of the segregation of these lands in accordance with section 3 of the El Dorado Valley Act. The time constraints Congress placed on the Commission have been met. However, Congress did not place time constraints on the ultimate transfer of title to the State, and the lands remain segregated.

[2] The lands at issue were segregated from "all forms of entry under the public land laws." As noted in previous cases involving mining claims located on land withdrawn pursuant to the El Dorado Valley Act, this segregation was effective to foreclose mineral location under the mining laws. See John L. Grassmeier, 77 IBLA 156 (1983); Malcolm L. Figert, *supra*; O. Glenn Oliver, 73 IBLA 56 (1983). It is well established that a mining claim located on land which is not open to such location confers no rights on the locator and is properly declared null and void ab initio. Ronald W. Froelich, 139 IBLA 84 (1997); Fred H. Gagon, 134 IBLA 368 (1996); John Boyd Parsons, 22 IBLA 328 (1975). Accordingly, the lands could not be located for Wells' mining claims, and the claims were properly declared null and void ab initio.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Decision appealed from is affirmed.

R.W. Mullen
Administrative Judge

I concur:

James L. Byrnes
Administrative Judge

